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TOM LYTHGOE, CHAIR

CHUCK NOTBOHM

KEN WEBER

**PROCEEDING OF THE BOARD OF COMMISSIONERS
COUNTY OF JEFFERSON, STATE OF MONTANA
November 14, 2006**

Present: Commissioners Lytghoe, Notbohm and Weber; Harold Stepper and Mike Hoffman, County Planners; Gretchen George, Health Department; Bonnie Ramey, Clerk and Recorder; Garry Pace, Superintendent of Schools; Tom Harrington and Tara Mastel, JLDC; Terry Sexton, Kevin Smith and Diana Allen, Forest Service; Jan Anderson, *Boulder Monitor/Jefferson County Courier*; Marga Lincoln, *Helena Independent Record*; Rod Sager, Celia Wolny, Leslie Thomas, Dave Kirsch, Brud Smith, Wally Hustad, Sabrina Steketee, Marilyn McCauley, Bob Klein, Frank and Ana Petrik, Larry Trettin, Ellen Rae Thiel, Douglas Nulle, Bob Decker, Ernie Kenison, Kenda Erickson, Bob Davies, Betty Charlton, Carol Ferguson, Dee Anna, Barbara Burkland, Shawn Bryant

MINUTES

Commissioner Weber moved to approve the minutes of October 10. Commissioner Notbohm seconded. The motion carried.

REPORTS

Receipt of Clerk and Recorder fees for October.

Receipt of October cash report from Treasurer.

CALENDAR REVIEW

11/15 Meet with Bill Lloyd and Dave Aune re: Saddle Mountain RID and Water and Sewer District - 10:00

JLDC - 2:00

11/16 CTAC - 8:00

Headwaters - 1:30

Onsite review - Lupine Lane - 2:00

RMDC - 3:30

Solid Waste Board - 7:00

SUBDIVISION REVIEW

November 14, 2006 minutes.wpd

PRELIMINARY PLAT APPROVAL - PETRIK MINOR SUBDIVISION

Mike Hoffman, County Planner, presented his staff report. He stated that an approach permit has been granted by MDT. Mike recommended that preliminary plat approval be granted.

Commissioner Weber moved to grant preliminary plat approval. Commissioner Notbohm seconded. The motion carried.

PRELIMINARY PLAT APPROVAL - INTERMOUNTAIN WEST ENERGY MINOR

Mike presented his staff report. This is a one lot split, and there are no roads within the subdivision. The current access will need an approach permit, and if they plan to build a road in the future, they will need to contact the road department. He recommended that preliminary plat approval be granted.

Commissioner Weber moved to grant preliminary plat approval. Commissioner Notbohm seconded. The motion carried.

ITEMS FOR COMMISSIONERS ACTION OR REVIEW

DISCUSS FIRE AS A MANAGEMENT TOOL IN THE BEAVERHEAD-DEERLODGE NATIONAL FOREST

Terry Sexton, District Ranger, stated that he knew that the Commission had a dislike of the use of fire in the management plan. Diana Allen stated that they came today to discuss policy that is new and has been incorporated into the forest management plan. The Appropriate Management Response (AMR) guidelines came out in 2003. They have changed their policy because of the 10 a.m. rule, disease, bug problems. The AMR just gives them one more tool in the toolbox. Sometimes it makes sense, economically and safety-wise, to manage fires differently.

Commissioner Notbohm stated that he and Commissioner Weber attended a meeting last year and fire as a management tool came up in the discussion. During that discussion, it was said that they would let the fire get to a couple hundred acres before they would shut it down. Mother Nature determines when a fire is out. He stated that there is a lot of bug kill in the area, and harvest would be a better option.

Diana stated that the option to let burn would more likely be used in areas that would be more easily contained. If harvest is an option, fire trucks would be able to get in. She stated that they probably won't see much of a change in how they handle fires. There is a list of criteria to determine how to treat each fire. Commissioner Notbohm noted that if harvest is done, it may not get to the point where they have a fire. Diana stated that before the change, the only option was to fully attack and suppress a fire, and this may not have been the best option from a safety and/or financial standpoint.

Commissioner Weber asked how many acres have to exist in a roadless area to use fire as a management tool. Diana stated that it is not tied to roadless areas; fire start plays into this also. Commissioner Weber stated that while use of fire has merit at times, the Commission's concern

is the tremendous amount of bug kill in the area. Granted, part of that can be attributed to the fact that they do suppress fires, but they feel that harvesting is a much better option - economically, ecologically and safety-wise. They are also concerned with the wildland-urban interface. Diana agreed that this is a concern, noted that they won't see the Forest Service using that response in an area where there are residents or in an area where mechanical options are feasible. However, in high, steep areas it may be their only option.

Commissioner Weber stated that another big concern that fueled the Commission's response is the loss of all Forest Service staff in Boulder. Whitehall also has a trend of reducing staff. The people to make the decisions will be imported in. Granted, they will be experts, but they will have no local knowledge. Diana agreed that a team could be brought in, but the decision would be made on the local level. She also stated that she understands the Commission's concern with losing staff. Commissioner Weber asked if we will continue to have Terry, or "a Terry" here in Jefferson County. Diana stated that there will be staff to work with.

Dave Kirsch stated that looking at the local timber around here, there are over-mature trees which should have been harvested. This hasn't been done; the trees aren't up high, they are easy to get to. When they catch fire, God help us. He said that he read in the paper that these trees can be taken. Diana agreed that they can do hazardous fuels work. Dave stated that he doesn't want to look at a bunch of black trees. If a fire starts here, it will burn all the way north, through all those subdivisions and we'll end up with dead people.

Kevin Smith stated, that to go to Commissioner Weber's question of where the fire policy comes into play for us; they had a fire in the Tobacco Root right below 9000 feet. It was 25 acres on very steep ground. It was a suppression fire, but not worth it for a few whitebark pine.

Diana invited the Commissioner to come to their meetings where they can review the checklist. She stated that it means a lot to have people collaborate.

Commissioner Lythgoe asked if they are saying that it is entirely possible to get rid of some of those black trees. Diana stated that this is true; the Commission can help decide the priorities. Terry stated that, on a forest level, we have to compete with Butte, who has more people and property. It is hard to argue that they don't have top priority. We have the Basin Creek mitigation project, but still aren't able to go forward because of litigation, although they have 99% community support. It is very frustrating. Diana stated that there could be a huge difference if they could partner with the Commission. Commissioner Weber stated that this is the wish of the Commission also. He is not sure where the Commission's letter put the Forest Service. Kevin stated that they are dealing with the Federal government, which is a huge bureaucracy. The Commission didn't agree with the use of fire. Currently the old option is gone and they now have the AMR.

Commissioner Weber stated that they are at the point now to discuss what the Commission is comfortable with and what the Forest Service is comfortable with. Diana stated that a pre-season meeting would be very helpful. Commissioner Weber stated that in that conversation, he would like to know what tools we have in our toolbox. Sometimes fire is an effective tool, but the

harvest option is also good for all concerned.

Commissioner Notbohm stated that we have to compete with Butte for money, but how much forest do they have; 70% of Jefferson County is state and federal lands. Terry stated that it is not acreage, but Butte has a large amount of interface. Commissioner Notbohm stated that in the BLM program, they are able to move on in fuel reduction projects. Terry stated that they have a different planning and appeal process, and they are not quite on the radar screen for litigation. Diana noted that not only does Jefferson County have to compete with Butte, but all of Montana has to compete with the rest of the country - California, etc. Commissioner Notbohm also noted that it would be nice if they could put the money used to fight fires towards fuel reduction. Diana stated that since they started fuel reduction, they are seeing fewer houses burning down. Commissioner Lythgoe stated that mitigation doesn't seem to get litigated.

Kevin stated that Commissioner Weber mentioned tools. Their public meetings don't get good attendance, but they are a part of the process.

Wally Hustad asked, along the lines of saving real estate, what the Commission has done regarding an evacuation plan. They have closed roads. He also asked how schools benefit from timber harvest. Commissioner Weber stated that 25% of the money generated from the sale of timber goes to schools. Wally asked about an evacuation plan. Commissioner Weber stated that there is planning underway. He suggested Wally contact the DES and Pat McKelvey.

Commissioner Weber asked where they go from here. Diana stated that they will be in contact with the Commission, at least by the pre-season in the spring.

LARRY TRETTIN - COMPLAINT REGARDING ANGEL LANE IN FENSKE SUBDIVISION

Larry stated that he is there today because of his concern with a road, Angel Lane, in a subdivision next to his property. The only information he can give today is from the subdivision. The Fenske's fenceline that borders his property is also the 60 foot easement. He got a call from Mr. Fenske one day, who indicated that he was aware of the right-of-way. He planned to do a subdivision, and he was not sure if he was going to use the easement. The preliminary staff report signed January 17th by Harold Stepper and Gerry Keogh stated that the Fenskes planned to use the easement to build a 24-foot road to service three lots. In April, he got a call from Bill Gruber. Bill stated that since he was already up there, he was willing to build the roads in for his subdivision. Bill told him he put in a 12-foot road for the Fenskes. Larry stated that he then called Harold, who told him that the Fenskes decided to make a private drive. Larry told Harold that he disagreed; when a road is put on a public easement it needs to be a public road. Harold told him that only one lot would be using this drive. He discussed the rules and regulations regarding half roads, but Larry stated that this doesn't have anything to do with this subdivision, in his mind. Harold maintained that the Fenskes were within their rights, so he decided to wait and see. When the lots sold, there were two houses that access off of Angel Lane, so it should have been a 24-foot road. He stated that he again called Harold about this, who passed it off to Ben Sautter, the Road Supervisor. Ben said that this was Harold's responsibility; he was going to look at it, but he is no longer with the County. He called Commissioner Lythgoe and set up a

meeting with Commissioner Lythgoe, Harold, Jeanette and he and his wife. A few days later, he got a letter that it was his responsibility to build the other half of the road to his subdivision. This didn't answer his questions and was based on information that wasn't correct. He has not applied for a subdivision. Larry stated that the Fenskes were going to do it right, but something has changed. He doesn't want to have to fix what others have messed up. If and when he does a subdivision, he will put in a 24-foot road.

Commissioner Notbohm stated that preliminary plat regulations require a 24-foot road. Larry stated that the report the Fenskes gave the Commission said it would be a 24-foot road; he assumes that this is what the Commission reviews. Commissioner Notbohm noted that just a 12-foot road was built. Larry stated that the Fenskes said that two lots would access elsewhere. What they did was have one lot access off of their driveway, which is illegal, and two lots access off of Angel Lane. If the County did this right, so be it. If not, he doesn't want to be liable. Harold stated that as far as what the Fenskes gave to Larry, it was only preliminary. What the Commission approved was amended. There is one lot off of Angel Lane. Their drive is 20 feet off of the road, and it didn't make sense to have a 24-foot road. He recommended to Mr. Trettin and two others to get together and share the costs of the road. Commissioner Notbohm asked if Mr. Trettin or others behind him decide to build, if they will need to widen the road to 24 feet. Harold stated that this is correct. Larry stated that legally, you can't have two houses off of a road without it being 24 feet wide.

Commissioner Lythgoe stated that they will have Harold produce the preliminary and final documents and the Commission will go view the road.

DISCUSS AND DECIDE ON APPROVAL OF HEALTH DEPARTMENT CREDIT CARD

Gretchen George, Health Department Office Manager, stated that because of three grants, each which require attendance at meetings across the state, and also the purchase of emergency stores of formula and diapers, charges have been made on personal credit cards. This has not normally been a problem, until a mistake was made. The Health Board then decided that the Health Department needs to have its own credit card. Commissioner Lythgoe stated that the card will have to be in a person's name, rather than the Health Department's. They learned this when the County attempted to get a credit card.

Commissioner Weber moved to approve a Health Department credit card in Gretchen's name. Commissioner Lythgoe seconded. Commissioner Notbohm asked how this has been done in the past. Commissioner Lythgoe stated that they have used a personal credit card and gotten reimbursed. There is also petty cash, but it is only \$25 - not enough to do anything with. Commissioner Notbohm stated that he doesn't approve of being in one person's name; he just doesn't like credit cards. Commissioner Lythgoe stated that they have discussed this before. They tried to get a credit card in the County's name, but no one would give them one. It has to be in a person's name. He does understand Commissioner Notbohm's concerns, however.

The motion carried, with Commissioners Lythgoe and Weber voting aye and Commissioner Notbohm voting nay.

DISCUSS AND DECIDE ON ALLOCATION OF COUNTY SHARE OF METAL MINES MONIES

Tara Mastel, JLDC manager, stated that the JLDC is the lead economic development organization in Jefferson County. She gave an overview of the JLDC's role and successes in Jefferson County. She noted that the JLDC has learned from the mistakes other counties have made. Tara outlined the JLDC's recommendations for the use of the money, and how the grant money is used in the Whitehall area. The \$50,000, \$100,000 and \$100,000 amounts would remain with the County. As for the \$250,000 for JLDC operations, they propose that this also be left with the County and JLDC will request funds annually as needed for operations. They appreciate that the fund took over 20 years to generate. In the same vein, economic development takes years to come to fruition, and needs time to build.

Commissioner Notbohm stated regarding the \$250,000 that the budget year is already set. Also, at the last meeting, it was suggested that the entire \$800,000 go to the JLDC to manage and use the interest. Tara stated that was one proposal. As for the loan program, the JLDC has no expertise to manage loans.

Commissioner Lythgoe stated that it was never the intent of this Commissioner, or the others he thinks, to write out an \$800,000 check and give it to the JLDC. He feels that they should be treated like any other department and deal with the budget on an annual basis. He feels that it is appropriate that \$150,000 go to the grant program. The loan program is not administered by the JLDC, and he doesn't have a problem with designating \$150,000 to that. He noted that the money will stay with the County. Wally Hustad stated that it sounds like they have already decided without the opportunity for the public to talk. Commissioner Lythgoe stated that he is talking now, and told Wally that he would have an opportunity to speak later. Commissioner Lythgoe continued that the \$50,000 for housing is appropriate, and this amount will stay with the County. As for the \$250,000 to fund the JLDC, they already decided at the budget hearing to fund them \$80,000 this year, with half of the money coming from the south and half from the north. The \$100,000 amounts will stay with the county.

Commissioner Notbohm stated that he is supportive of the \$50,000 for housing, and asked about the JLDC's proposal to hire someone to deal with this. Commissioner Lythgoe stated that they would use seed funding of \$10,000 for a coordinator, until grant funding is secured. Tara stated that the JLDC staff doesn't have the time to take on this task, and a JLDC member suggested that a coordinator be hired.

Commissioner Notbohm said the fact of the matter still remains that the JLDC is the economic development arm of Jefferson County and they have to deal with their budget yearly. He doesn't feel that they should approve it out four years. Commissioner Lythgoe stated that he totally agrees. Commissioner Notbohm stated that in the future, they need to be more hands-on with the projects. At the last meeting, Commissioner Weber made a motion to approve this and basically shut him up. This upset him and is why he left the meeting. There are some projects done in the past that he has a problem with.

Wally stated that he saw an article in the Sunday paper, and has met with Tom Harrington to

discuss the JLDC. He stated that this is a private, non-profit corporation, and asked how it became the economic development arm of the County. Commissioner Notbohm stated that the JLDC came into being in 1995, and was formed by the Commission. Wally asked how much money the JLDC has received from the County to date. Commissioner Notbohm stated that Bonnie has the figures, and noted that they have also received grant monies. Wally stated that the JLDC is a private corporation using state, federal and county money. He asked who has oversight of the success of the projects.

Commissioner Lythgoe stated that the reason they are a private, non-profit group is that they have the opportunity to get grants the County would not be able to get otherwise. They are not a private enterprise; they are the economic development arm of the county. Wally asked what economic benefit has the County received from the group. Commissioner Lythgoe stated that he is not prepared to answer that. Wally stated that the JLDC has benefitted, but asked again how the County has benefitted. Commissioner Lythgoe stated that if Wally spent time with Tom Harrington, he probably listed the benefits the County has received.

Wally stated that what Tom is involved with is very beneficial in the county. His problem is that this is a non-profit group that is benefitting over the county. The money is for economic development. There is no better way to bring economic development than infrastructure. The money would be better spent where the majority of people will benefit. As a private developer, watching poor choices being made, he doesn't want to see the JLDC benefitting over the county.

Commissioner Weber stated that he would urge Wally to take advantage of the grant and loan program for his development.

Dave Kirsch stated that he is on the executive committee of the JLDC. All members are volunteers and they are not getting rich. He stated that this money is not dedicated to some developers' interests; this money is to create jobs. Taking a large amount of money to do one project that Wally has suggested is not going to create jobs. Economic development is a long-term project.

Commissioner Weber stated that three projects that the JLDC has been involved with that have benefitted the County are Mountain States Drivetrain, AYA and Liberty Place.

Tom Harrington stated that he would like to get back on track. This is about the metal mines money, not JLDC. The JLDC was formed by concerned citizens for the betterment of the County. He noted that it is great to see so many people in attendance to take part in the discussion. Tom said that if people want to have a public meeting to discuss JLDC, he thinks that would be great. The JLDC is a great organization that does great things; the County couldn't afford to hire a private firm to do all that the JLDC does.

Commissioner Lythgoe stated that the JLDC puts out monthly reports, their meetings are open to the public, and there are many night meetings that the JLDC has taken part in. They are very transparent. Wally stated that they aren't required by law to be transparent. He asked how many board members have benefitted from sitting on the JLDC board. Commissioner Lythgoe stated

that whether they are required to be transparent or not, they are transparent.

Commissioner Notbohm stated that when he first came back into office they were not transparent, and that is one of the problems he has. The Commission now gets monthly reports. Currently, they are trying to sell AYA, and the JLDC can purchase the property from the County for \$13,000. \$1.2 million in renovations have been done, and they will sell it at a loss. It is terrible that this is the end result of that project. Commissioner Notbohm stated that the other project he has a problem with is the industrial park in Whitehall. The County has so far invested \$400,000, and we still don't have a lease agreement. He is not necessarily opposed to the park, but putting money into something they don't own isn't good business. Commissioner Lythgoe stated that he didn't know - he knows of a restaurant that sold in this county for a million that put \$30,000 in the owner's pocket after ten years of operation.

Commissioner Weber moved to move the overall discussion of JLDC to a future agenda. Commissioner Lythgoe seconded. The motion carried.

Celia Wolny stated, in regards to housing, they are really close to getting a board together. She asked if the \$50,000 discussed has to do with the current project in Boulder and, if so, will it be run through the board before any of the money is expended. Tara stated that the short answer is that she doesn't know. It would probably depend on whoever would bring the proposal to the Commission. Commissioner Lythgoe stated that the JLDC has put the Boulder housing project at a high priority, and they want to work very closely with the local group. Commissioner Notbohm stated that he just doesn't want to have two separate groups.

Sabrina Steketee stated that she moved back to Boulder four years ago; one of the reasons is that this is an area that is beginning to grow. Tom made a comment that things take time. When she moved back, there was no high-speed internet in Boulder, so she brought it in herself. The JLDC then partnered with her; she spent \$30,000 of her own money to subsidize the project. She knows of six businesses in the community that are able to operate and support their families because of this. Because of JLDC involvement, they are able to have 30 people in Boulder working for one of her clients in Michigan. Another business is interested in coming here because of JLDC involvement. She stated that she has a hard time listening to someone denigrate an organization that has worked their tails off for this County.

Paul Smith stated that the JLDC is not as transparent as they could be. Commissioner Notbohm couldn't find out information; he hears snippets every once in a while of what they are doing. He noted that the money doesn't have to be spent right now, there are other allowable uses, and he asked if the Commission has investigated those. Commissioner Lythgoe stated that \$1.5 million towards tax relief would be a spit in the bucket. They need to look at economic development. Economic development is a long-term process. When the mines close, everyone's taxes are going to go up. Paul reiterated that the JLDC needs to be more transparent. People don't know what is going on. Dave Kirsch stated that meetings are held every month and the public is welcome to attend. Commissioner Lythgoe noted that there was some misinformation in the article in the *Independent Record*.

Barbara Workman, Clancy Elementary, stated that 35% of their budget comes from mine tax revenue. She stated that when the mine closed for a time this year, they had to get a loan to pay their teachers. They need to look at a rainy-day fund. Commissioner Lythgoe stated that there really isn't a lot of things that this money can be used for. It really comes down to planning and economic development.

Dee Anna asked about mitigating the impact. She stated that in Wyoming there is a severance tax that can take care of a rainy day.

Shawn Bryant asked, in allocating operating funds to the JLDC, how can they make sure that the money stays in the north end. Commissioner Lythgoe stated that it is pretty easy to track.

Carole Ferguson stated that she is familiar with the statutes. It is important to remember that one purpose of these funds is to retire debt. It is important to remember the purpose is to stabilize the tax base and also provide grants and loans to the local communities, such as Boulder. The schools have been receiving money while the mines are open, and they have the ability to save for a rainy day. What the Commission has to make a decision on is the release of money to the school districts when the mines close. They need to be extremely careful that the money goes where it is most needed. She asked, for clarification, the \$800,000 requested is not to go to the JLDC, but to be held for them. Tara answered that this is exactly correct. They would just like the money earmarked for these purposes.

Commissioner Lythgoe stated that he wants to assure everyone here, and everyone in Jefferson County, that the Commission has some pretty high profile stuff that they have taken on - mine permitting, DEQ legislation, access issues. They have not dedicated \$1 million to these projects. They are not going to give JLDC \$800,000 and use the rest to fight annexation, access and mining issues. He noted that there is no debt in the county except for one outstanding loan; all interest has been paid, and he is not sure that they want to use the money to pay off \$150,000. He again outlined the JLDC's requests and what he is willing to support.

Dee Anna stated that she would like to see the Commission look at this more holistically. Commissioner Lythgoe stated that today, they are just looking at giving anywhere from \$70,000 to \$120,000 to the JLDC; he would recommend that they set up the loan program. Dee stated that they are not necessarily locking all of the money in. Bonnie asked if they are just making allocations for this year. Sabrina asked if they will decide on the use of a portion of the county monies to mitigate Boulder elementary.

Commissioner Weber stated that by starting down this path, it will allow them to start addressing more human interest things - Liberty Place, the Chamber, are examples of groups in the Whitehall community who benefit. If they don't start somewhere, they can't deal with the holistic aspects. If there is a good need, they will now have the grant, loan and housing process to deal with it, and a set criteria.

Commissioner Lythgoe stated that the Commission will entertain anything that comes before them. This is just a portion; this is one path of maybe ten for the use of the metal mines funds.

Rod Sager stated that part of the confusion is how things fits within the plan; are they going by statute or the JLDC's plan. Commissioner Lythgoe stated that the criteria is statute.

Commissioner Lythgoe moved that the JLDC take the lead in developing a grant program and a business loan program for the Jefferson High School district, similar to the ones in the south end of the County. The grant project is to be given \$30,000 for this fiscal year, and it is not necessary that any money be set aside for the business loan program at this time. He further moved that they allocate \$10,000 for seed money for a housing coordinator for JLDC, and \$40,000 to JLDC for this fiscal year. Commissioner Weber seconded. Commissioner Notbohm stated that he realizes that they lost the chance to pay off any interest, but paying off the loan on the central shop is a good idea. Bonnie stated that she will get back to the Commission and they can decide at a later time. The motion carried.

MEETING ADJOURNED

ATTEST:

BONNIE RAMEY
CLERK AND RECORDER

TOMAS E. LYTHGOE, CHAIR

CHUCK NOTBOHM, COMMISSIONER

KEN WEBER, COMMISSIONER